

AMENDED IN SENATE APRIL 13, 1998

AMENDED IN SENATE MARCH 19, 1998

AMENDED IN SENATE MARCH 16, 1998

AMENDED IN SENATE MARCH 9, 1998

SENATE BILL

No. 1480

Introduced by Senator Kopp

February 3, 1998

An act to ~~amend Section 1318 of~~ *add Section 1319.5 to* the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1480, as amended, Kopp. Arrest: release on own recognizance.

Existing law provides that the defendant shall not be released from custody under his or her own recognizance until the defendant files with the clerk of the court a signed release agreement which includes specified promises, agreements, and acknowledgments.

This bill would ~~provide that a defendant who has, without good cause, failed to appear in court as ordered 3 or more times over the 3 years preceding the current arrest, or who is currently on parole or probation, shall not be released from custody under his or her own recognizance unless prior written notice has been given to the prosecuting attorney and a hearing on the merits of such a release has been held in open court before a judge or magistrate~~ *prohibit the release of any person on his or her own recognizance who is arrested for a*

new offense and who is currently on felony probation or felony parole or who has failed to appear in court as ordered, resulting in a warrant being issued, 3 or more times over the 3 years preceding the current arrest, and who is arrested for any felony offense or other specified crimes, until a hearing is held in open court before the magistrate or judge. By increasing the duties of court personnel, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1318 of the Penal Code is~~
2 ~~amended to read:~~
3 ~~1318. (a) The defendant shall not be released from~~
4 ~~custody under an own recognizance until the defendant~~
5 ~~files with the clerk of the court or other person authorized~~
6 ~~to accept bail a signed release agreement which includes:~~
7 ~~(1) The defendant's promise to appear at all times and~~
8 ~~places, as ordered by the court or magistrate and as~~
9 ~~ordered by any court in which, or any magistrate before~~
10 ~~whom the charge is subsequently pending.~~
11 ~~(2) The defendant's promise to obey all reasonable~~
12 ~~conditions imposed by the court or magistrate.~~
13 ~~(3) The defendant's promise not to depart this state~~
14 ~~without leave of the court.~~

~~(4) Agreement by the defendant to waive extradition if the defendant fails to appear as required and is apprehended outside of the State of California.~~

~~(5) The acknowledgment of the defendant that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release.~~

~~(b) A defendant who has, without good cause, failed to appear in court as ordered three or more times over the three years preceding the current arrest, or who is currently on parole or probation, shall not be released from custody under his or her own recognizance unless prior written notice has been given to the prosecuting attorney and a hearing on the merits of such a release has been held in open court before a judge or magistrate.~~

SECTION 1. Section 1319.5 is added to the Penal Code, to read:

1319.5. (a) No person described in subdivision (b) who is arrested for a new offense may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge.

(b) Subdivision (a) shall apply to:

(1) Any person who is currently on felony probation or felony parole.

(2) Any person who has failed to appear in court as ordered, resulting in a warrant being issued, three or more times over the three years preceding the current arrest, except for infractions arising from violations of the Vehicle Code, and who is arrested for any of the following offenses:

(A) Any felony offense.

(B) Any violation of the California Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

(C) Any violation of Chapter 9 (commencing with Section 240) of Title 8 of Part 1 (assault and battery).

(D) A violation of Section 484 (theft).

(E) A violation of Section 459 (burglary).

(F) Any offense in which the defendant is alleged to have been armed with or to have personally used a firearm.

1 SEC. 2. Notwithstanding Section 17610 of the
2 Government Code, if the Commission on State Mandates
3 determines that this act contains costs mandated by the
4 state, reimbursement to local agencies and school
5 districts for those costs shall be made pursuant to Part 7
6 (commencing with Section 17500) of Division 4 of Title
7 2 of the Government Code. If the statewide cost of the
8 claim for reimbursement does not exceed one million
9 dollars (\$1,000,000), reimbursement shall be made from
10 the State Mandates Claims Fund.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

